

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY ENERGY TRANSMISSION)	
CORPORATION, INC.,)	
_____)	CASE NO. 92-177
)	
ALLEGED VIOLATION OF KRS 278.160)	

O R D E R

This proceeding was initiated by Commission Order entered May 1, 1992 to investigate a transportation agreement between Kentucky Energy Transmission Corporation ("Kentucky Energy") and Burkesville Gas Company, Inc. ("Burkesville Gas"). The Commission specifically found in its Order that a prima facie showing had been made that Kentucky Energy should be designated as an intrastate pipeline which is operating as a transporting utility and pursuant to KRS 278.160 and Administrative Case No. 297¹ should also be required to have tariffs on file with the Commission. The Commission ordered that Kentucky Energy shall have the option of either filing a written response to the allegations contained in the May 1, 1992 Order or of filing a response which includes a tariff in compliance with Commission rules and regulations. Kentucky Energy chose the latter option and on May 22, 1992 filed a rate schedule, a transportation

¹ Administrative Case No. 297, An Investigation of the Impact of Federal Policy on Natural Gas to Kentucky Consumers and Suppliers.

agreement, including Exhibit A to that agreement which sets out a per Mcf transportation charge, and an addendum to the transportation agreement. The Commission further stated in its Order that in the event Kentucky Energy comes into compliance with requirements and files all information required by the Commission's statutes and regulations that the hearing on this issue would be cancelled.

After a review of the tariff and the various documents filed by Kentucky Energy, the Commission finds that while the transportation agreement in and of itself appears to be reasonable, the addendum to the transportation agreement references the capital lease entered into which is currently the subject of Commission Case No. 92-178² and requires that a local distribution company jurisdictional to this Commission, namely Burkesville Gas Company, remit certain monies due under the terms of the transportation agreement and its addendum to be applied toward the reduction of an approximately \$204,613 loan owed by Kentucky Energy to the Bank of Clinton County. As the addendum ties the transportation agreement directly to the capital lease agreement which is the subject of Commission Case No. 92-178, the Commission finds it necessary for Ken Turner, acting as president of Kentucky Energy, to appear June 16, 1992, represented by counsel, to be subject to cross-examination regarding the content

² Case No. 92-178, Burkesville Gas Company, Inc., Ken-Gas of Kentucky, Inc., and Ken Turner, Alleged Violation of KRS 278.300.

of the transportation agreement, addendum to the transportation agreement, and the tariff.

The tariff filed by Kentucky Energy as well as the other documentation indicate that service to Burkesville Gas commenced on the 30th day of January, 1992, over four months prior to the date that Kentucky Energy filed its tariff with the Commission. Ken Turner acting as president of Kentucky Energy should further appear at the hearing scheduled in this matter and show cause, if any Kentucky Energy can, why it should not be penalized pursuant to KRS 278.990(1) for operating as an unauthorized utility and failing to file its tariffs in violation of KRS 278.160.

One additional problem with the transportation agreement filed by Kentucky Energy is the fact that the actual agreement itself is unexecuted. Ken Turner should be prepared to provide the Commission with an executed, dated copy of the transportation agreement as part of Kentucky Energy's filing in this proceeding. That document should be produced at the hearing referenced above.

IT IS THEREFORE ORDERED that:

1. Kentucky Energy, represented by counsel, shall appear at the hearing scheduled for June 16, 1992, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, and show cause, if any it can, why it should not be penalized pursuant to KRS 278.990(1) for operating as an unauthorized utility by its failure to file tariffs in violation of KRS 278.160.

2. Kentucky Energy, through the testimony of its acting president, shall produce for the Commission's review an executed copy of the transportation agreement included in its May 22, 1992 filing.

Done at Frankfort, Kentucky, this 11th day of June, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director, Acting